

REMARKS

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

I. Amendments to the Claims

Claims 43-59 have been amended to clarify the features of the invention recited therein in order to overcome the 35 U.S.C. § 112 rejections and the prior art rejections discussed in detail below.

II. 35 U.S.C. § 112, First Paragraph Rejections

Claims 43-59 were rejected under 35 U.S.C. § 112, first paragraph for reciting subject matter not described in the specification. Specifically, the rejection alleges that the claimed “existence confirmation unit” and the claimed “media key data” is not described in the specification.

As mentioned above, claims 43-59 have been amended to overcome this rejection. Specifically, claims 43-59 have been amended to replace the term “existence confirmation unit” with the term “comparing unit.” Further, claims 43-59 have been amended to replace the term “media key data” with the term “revocation data.”

Support for the above-mentioned amendments can be found, in at least, Section 2.4 of the specification. Specifically, Section 2.4 of the specification states that “*The comparing unit 1108 checks if a key revocation data file exists on the recording medium 1300 via the drive unit 1110 according to the instruction of the controlling unit 1109. The comparing unit further receives*

existence information indicating whether key revocation data file exists or not, from the drive unit 1110” (see page 101 of the specification). Further, the specification discloses that “The controlling unit 1109 instructs the comparing unit 1108 to check if one or more key revocation files exist on the recording medium 1300 or not” (see page 103 of the specification).

Further, the rejection alleges that the limitation “media data key ... not newer ... does not update ...,” as recited in claim 59 is not described in the specification. This portion of the 35 U.S.C. § 112, first paragraph rejection is respectfully traversed, since paragraphs [0251] and [0291] of the publication of this application (i.e., U.S. 2004/0243814) clearly provide a description of the above-mentioned limitation.

In view of the above, it is clear that claims 43-59 now recite limitations that are described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

As a result, withdrawal of these 35 U.S.C. § 112, first paragraph rejections is respectfully requested.

III. 35 U.S.C. § 112, Second Paragraph Rejections

Claims 43-59 were rejected under 35 U.S.C. § 112, second paragraph for being indefinite for reciting “existence confirmation unit” which is allegedly a relative term. Specifically, the rejection stated that “existence confirmation unit” is a relative term and the specification does not provide a standard for ascertaining the requisite degree.

Initially, as mentioned above in Section II, please note that the claims have been amended to recite new limitations that are clearly described in the specification. Therefore, since

the new limitations are clearly described in the specification, they are not indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. As a result, withdrawal of this 35 U.S.C. § 112, second paragraph rejection is respectfully requested.

IV. 35 U.S.C. § 103(a) Rejections

Claims 43-45, 51, 52 and 55-58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ansell et al. (U.S. 6,367,019) and Moribe et al. (U.S. 5,886,979). Further, dependent claims 46-50, 53 and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ansell, Moribe, and Lotspiech (U.S. 6,609,116). Additionally, claim 59 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Ansell, Moribe and the Examiner's Official Notice. These rejections are believed clearly inapplicable to claims 43-59 for the following reasons.

Amended independent claim 43 recites a recording apparatus for recording encrypted content onto a recording medium. Further, claim 43 recites that the recording apparatus includes a comparing unit that, when the content is to be written onto the recording medium, confirms whether or not a piece of key revocation data exists on the recording medium. Additionally, claim 43 recites that the recording apparatus includes a writing unit that, when the comparing unit confirms that the piece of key revocation data does not exist on the recording medium, writes the encrypted content, an encrypted content key, and the piece of key revocation data stored in a storage unit into a rewritable area of the recording medium.

As a result, the structure required by claim 43 provides a feature such that, even when the recording medium does not contain the key revocation data, it is possible to provide protection of the content recorded to the recording medium by recording the piece of key revocation data stored in the storage unit to the rewritable area of the recording medium.

Initially, please note that the above-described 35 U.S.C. § 103(a) rejection acknowledges that Ansell fails to disclose or suggest the features of the comparing unit (previously identified as the existence confirmation unit) and the writing unit, as now recited in amended claim 44. In light of the above this rejection relies on Moribe for teaching the above-mentioned features which are lacking from Ansell.

However, Moribe merely teaches a system that prevents illegal copying, such that when identification information is not recorded, recording/reproducing is controlled using original firm information, and then an application program is executed (see Fig. 6, specifically steps S21, S22 and S27). Additionally, Moribe teaches that the identification information 1 includes data combined from sectors 1a and 1b, such that a portion of the data (i.e., the identification information) from the sectors is recorded in a manner that the data cannot be deleted (in other words, cannot be rewritten) (see col. 8, lines 9-11, 29-33 and 34-43, col. 1, lines 54-65 and col. 11, lines 34-55).

Thus, in view of the above, it is clear that Moribe teaches that the identification information is recorded in a manner that a portion of the identification information cannot be rewritten, but fails to disclose or suggest the comparing unit that, when the content is to be written onto the recording medium, confirms whether or not a piece of key revocation data exists on the recording medium and the writing unit that, when the comparing unit confirms that the

piece of key revocation data does not exist on the recording medium, writes the encrypted content, an encrypted content key, and the piece of key revocation data stored in a storage unit into a rewritable area of the recording medium, as recited in claim 43.

In other words, Moribe describes that a portion of the identification information cannot be deleted/rewritten, and thus fails to disclose or suggest that the key revocation data is written into a rewritable area when the key revocation data is not found on the recording medium, as required by claim 43.

Additionally, in view of the above, it is apparent that Moribe teaches that when identification information is not recorded, recording/reproducing is controlled using original firm information (i.e., not the identification information), and then an application program is executed, but fails to disclose or suggest the writing unit that, when the comparing unit confirms that the piece of key revocation data does not exist on the recording medium, writes the encrypted content, an encrypted content key, and the piece of key revocation data stored in a storage unit into a rewritable area of the recording medium, as recited in claim 43.

In other words, according to Moribe, when the identification information is not found on the recording medium, the identification information is not written to the recording medium to ensure copyright protection. This result of the invention of Moribe does not provide the benefit of the structure required by claim 43, such that, even when the recording medium does not contain the key revocation data, it is possible to provide protection of the content recorded on the recording medium by recording the piece of revocation data stored in the storage unit to the rewritable area of the recording medium.

Therefore, because of the above-mentioned distinctions it is believed clear that claim 43 and claims 44-54 and 59 that depend therefrom would not have been obvious or result from any combination of Ansell and Moribe.

Regarding dependent claims 46-50, 53, 54 and 59, which were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ansell and Moribe in view of various combinations of Lotspiech and the Examiner's Official Notice, it is respectfully submitted that Lotspiech and the Examiner's Official Notice does not disclose or suggest the above-discussed features of independent claim 43 which are lacking from the Ansell and Moribe references. Therefore, no obvious combination of Ansell and Moribe with Lotspiech and/or the Official Notice would result in, or otherwise render obvious, the invention recited independent claim 43 and claims 46-50, 53, 54 and 59 that depend therefrom.

Furthermore, there is no disclosure or suggestion in Ansell, Moribe, Lotspiech and/or Official Notice or elsewhere in the prior art of record which would have caused a person of ordinary skill in the art to modify Ansell, Moribe, Lotspiech and/or the Official Notice to obtain the invention of independent claim 43. Accordingly, it is respectfully submitted that independent claim 43 and claims 44-54 and 59 that depend therefrom are clearly allowable over the prior art of record.

Amended independent claims 55, 56, 57 and 58 are directed to a method, a program, a storage medium and a system, respectively and each recite features that correspond to the above-mentioned distinguishing features of independent claim 43. Thus, for the same reasons discussed above, it is respectfully submitted that independent claims 55, 56, 57 and 58 are allowable over any combination of Ansell, Moribe, Lotspiech and/or the Official Notice.

V. Conclusion

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance and an early notification thereof is earnestly requested. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

Toshihisa NAKANO et al.

/Andrew L. Dunlap/

By: 2009.08.25 14:30:59 -04'00'

Andrew L. Dunlap
Registration No. 60,554
Attorney for Applicants

ALD/led
Washington, D.C. 20005-1503
Telephone (202) 721-8200
Facsimile (202) 721-8250
August 25, 2009